



Board of Adjustment  
PO Box 120  
Town of Fremont, New Hampshire 03044

Members present: Chairman Richard Butler, Co-chairman Jack Baker, Doug Andrew, Brett Hunter, and Secretary Meredith Bolduc.

Mr. Butler called the meeting to order at 7:30 p.m. then called the roll.

It was agreed to go directly to the scheduled Public Hearing and take care of any Board business when the Hearing was finished.  
Case # 05-003

COOPER' CORNER  
MAP 3 LOT 037

Present: Owner John Wilder, Brian Desfosses of Eric Mitchell Associates representing Cooperage Forest, abutters

Mr. Butler opened this Public Hearing at 7:35 p.m.

Mr. Butler explained the purpose of the Board and the procedure for a Variance and read the five conditions which a majority of the Board must be in agreement with in order for the Board to grant a Variance. He read the Public Notice of the Hearing which read as follows:

*In accordance with NH RSA 675: 7, you are hereby notified that the Fremont Zoning Board of Adjustment will hold a Public Hearing at 7:30 pm on June 14, 2005 at the Fremont Town Hall for Cooper's Corner, John Wilder, 326 Main Street, Map 3 Lot 037, Fremont NH.*

*The applicant is seeking a Variance from Article IV Section 1 to allow a portion of a building, specifically a fire wall, to remain closer than fifty (50) feet from the street property line after the removal of said building.*

*You are invited to appear in person or by counsel and state reasons why the appeal should or should not be granted. Written comments will be accepted up until the date of the hearing.*

It was noted that this hearing was noticed on May 24, 2005 at the Fremont Post Office and Fremont Town Hall and in the May 27, 2005 edition of the Rockingham News. The applicant and all abutters were notified via certified mail on May 23, 2005 and all returns have been received. A letter of denial from the Building Inspector dated May 19, 2005 was found to be part of the application package. The application was found to be complete.

Mr. Desfosses presented plan # 5-98-04 drawn by Eric Mitchell & Associates and dated May 12, 2004. He stated that Mr. Wilder is seeking a Variance to allow a portion of a building to remain closer than fifty (50) feet from the street property line.

Mr. Desfosses stated that after the Planning Board process for the Cooper's Forest project it became it was found that the internal wall of the subject building was 7.5' closer to the street right of way than originally shown making it 61.1' from the main portion of the right of way as shown on the plan and 42.5' from the radius point of the right-of-way. He added that this is something that they would have asked for relief for originally, not something that has been added and explained that the building lines were not correct and they thought the internal wall was 7.5' internal to unit 3. Because of the radius they are too close to the right of way. Mr. Desfosses stated that they are asking to be allowed to maintain unit 3 in the building as it now exists and not lose 320 sq ft of space. Mr. Desfosses stated that they have complied with the intent of the road right of way. Mr. Wilder stated that he had talked with Building Inspector Roy and the free standing wall will be taken down and replaced with a wooden frame wall. It was noted that the lot otherwise complies with all ordinances. Mr. Butler asked about signage and Mr. Wilder stated that there would be signs, but not in the front.

Comment Sheets were received from the following:

Conservation Commission: No comment

Health Officer: No concerns

Fire Chief: Concerns of fire wall (cinder block) is now free standing. No support on side where building was torn down; should be supported or town down; a flash over fire could blow it over. I have no problem with distances of 42.5' vs. 50'. Unit 4 was boiler room not incinerator room.

After some discussion and review of the plan Mr. Desfosses addressed the five conditions as submitted with his application and the Board voted on them as follows.

1. The Proposed use would not diminish surrounding property values because:  
*The existing building is closer to the Route 107 right of way than to the Spaulding Road right of way. Also, a 42.5' setback will be maintained from that radius point...*

Board vote:

Mr. Butler     Yes  
Mr. Hunter     Yes  
Mr. Baker       Yes  
Mr. Andrew     Yes

2. Granting the Variance would be of benefit to the public interest because:  
*Easier and cleaner destruction of a portion on the building to be removed (unit 2)*

Board vote:

Mr. Butler     Yes  
Mr. Hunter     Yes  
Mr. Baker       Yes  
Mr. Andrew     Yes

3. Denial of the Variance would result in unnecessary hardship to the owner because of the following special circumstances of the property that distinguish it from to other properties similarly zoned because: *Existing buildings on both sides of a right of way that allows access to useable portions of the site to the northeast.*

Board vote:

Mr. Butler     Yes  
Mr. Hunter     Yes  
Mr. Baker       Yes  
Mr. Andrew     Yes

- a. Interferes with the applicant's reasonable use of the property considering its unique setting because; *It would allow the full existing unit 3 to be utilized.*

Board vote:

Mr. Butler     Yes  
Mr. Hunter     Yes  
Mr. Baker       Yes  
Mr. Andrew     Yes

- b. No fair and substantial relationship exists between the general purposes of the Zoning Ordinance and the specific restrictions of the property because: *A portion of the building is being removed to allow a setback to the right of way.*

Board vote:

Mr. Butler     Yes  
Mr. Hunter     Yes  
Mr. Baker       Yes  
Mr. Andrew     Yes

c. The Variance would not injure the public or private rights of others because: *No rights exist that would be injured from this proposal.*

Board vote:

Mr. Butler	Yes
Mr. Hunter	Yes
Mr. Baker	Yes
Mr. Andrew	Yes

4. Granting the Variance would do substantial justice because: *It would allow full use of unit 3 as intended*

Board vote:

Mr. Butler	Yes
Mr. Hunter	Yes
Mr. Baker	Yes
Mr. Andrew	Yes

The use is not contrary to the spirit of the ordinance because: *A setback is being provided to the right of way of 61.1'. The radius point begins 42.5' from the proposed building edge.*

Board vote:

Mr. Butler	Yes
Mr. Hunter	Yes
Mr. Baker	Yes
Mr. Andrew	Yes

Mr. Hunter made the motion that, based on the information presented and as the result of the Boards vote on the five conditions, the Board grant the Variance, as requested by Cooper's Corner for Map 3 Lot 037, to the terms of Article IV Section 1 to allow a portion of an existing building to remain closer than fifty (50) feet, but no closer than forty two and one half (42.5') feet, from the street property line at the radius of Route 107 and Spaulding Road.

Motion seconded by Mr. Baker with unanimous favorable vote.

Mr. Andrew made the motion to close this Public Hearing at 8:05 p.m.

Motion seconded by Mr. Baker with unanimous favorable vote.

Case # 05-006  
Walter and Sandra Sadlier  
MAP 2 LOT 156-1.11

Present: Owners Walter and Sandra Sadlier, abutters Brande McLean, Diane Lucas, Claire Williams, Lois and Bob Garside. Also present were Michelle Bunnemeyer, Ed and Lisa Brylczyk, James Page, Louise Yee and Susan DeVeber.

Mr. Butler opened this Public Hearing at 8:15 p.m.

Mr. Butler explained the purpose of the Board and the procedure for a Variance and read the five conditions which a majority of the Board must be in agreement with in order for the Board to grant a Variance. He read the Public Notice of the Hearing which read as follows:

*In accordance with NH RSA 675: 7, you are hereby notified that the Fremont Zoning Board of Adjustment will hold a Public Hearing at 8:15 pm on Tuesday June 14, 2005 at the Fremont Town Hall for Walter and Sandra Sadlier for 24 Andreski Drive, Map 2 Lot 156-1.11, Fremont NH.*

*The applicant is seeking a Variance from Article IV Section 3 to allow for a thirty foot by thirty four foot (30' x 34') addition which will include an attached garage and second level in-law dwelling unit, without proper acreage as set forth in the Town of Fremont Zoning Ordinances.*

*You are invited to appear in person or by counsel and state reasons why the appeal should or should not be granted. Written comments will be accepted up until the date of the hearing.*

It was noted that this hearing was noticed on May 25, 2005 at the Fremont Post Office and Fremont Town Hall and in the May 27, 2005 edition of the Rockingham News. The applicant and all abutters were notified via certified mail on May 26, 2005 and all returns have been received. A letter of denial from the Building Inspector Thom Roy dated May 25, 2005 was found to be part of the application package. The application was found to be complete.

Mr. Butler explained that there is not a full board present and gave the applicant the option of waiting for full Board for a decision. The applicant opted to continue with the 4 members present.

Mr. Butler read a 16 signature "Residents Petition" presented.

*"We the undersigned residents of evergreen Estates located in Fremont, New Hampshire oppose the application for a Variance, from Article IV Section 3 to allow for a thirty foot by thirty-four foot (30'x34') addition, which will include an attached garage and second level in-law dwelling unit, Without Proper Acreage, as set forth in the Town of Fremont Zoning Ordinance. Said Variance is being sought by Walter and Sandra Sadlier for 24*

*Andreski Drive, Map 2 Lot 156-1.11, Fremont, New Hampshire.”*  
(see file)

Mrs. Sadlier stated that their Variance request is not for an addition of 30'x34'. She clarified that it is to allow the construction of a 12 foot by thirty foot (12' x 30') addition which will include a third attached garage and second level in-law dwelling unit. The existing 2 car garage is 22'x30'. Some existing space on the second level will be combined with the addition to create a 30' x 34' in-law dwelling unit.

The Board reviewed the plan presented which showed the entire 2.37 acre (103,237 sq. ft.) lot, existing buildings, proposed addition, setbacks to property lines, well and septic locations. Setback distance was discussed and Mr. Butler stated that they do meet the setback standards and as stated in the Building Inspectors letter the in-law dwelling unit would require the lot size to be a minimum of 2 acres plus an additional 24, 000 sq ft, for a total of 2.55 acres (111,120 sq.ft).

The Board received a June 14, 2005 written correspondence from Peter Grulke and Michelle A. Bunnemeyer, Esquire, as a interested parties who are not abutters, but own property in the subdivision. The letter stated in part that *“granting this variance request will adversely affect the character of this subdivision and therefore the value of our property, we are writing as parties in interest to express our opposition”*. The correspondence further states *“We believe that the ZBA should deny this variance application, as discussed below, the standard for granting a variance cannot be met in the present case.”* I. *“no unnecessary hardship; II. Not consistent with the Fremont Zoning Ordinance; III. It will diminish the value of surrounding properties; IV; granting it would be contrary to the public interest and would not do substantial justice”*. Conclusion: *“granting the applicants’ variance request will erode the integrity of the Evergreen Estates subdivision as a neighborhood of single family homes, diminish the value of the properties contained in this subdivision , and nullify Article IV, section 3 of the Fremont Zoning Ordinance. Because the applicants in this case area not able to meet the standard for a variance, their application should be denied.”*  
(see complete correspondence in file)

Abutters concerns:

Mrs. McLean said there are 4 abutters here who are all against the Variance. Suggested that the Board take into consideration the neighbors who are against this. She said that this development is for single family homes and voiced concern for a second living unit added to a home in their single family development as well as the effect to her own leach field.

Mr. Brylczyk stated that when they purchased their home they signed covenants, one of which was that the home would remain a single family home. The question is will it negatively affect the value of their properties. Mr. Butler stated that ZBA deals with the variance request only and has nothing to do with any covenants that may be part of the subdivision or purchase agreement. Mr. Page asked if the additional unit would become a

rental unit when the in-laws are no longer there. Mrs. Sadlier answered that she will not rent it out. Michelle Bunnemeyer stated that it is not so much an in-law apartment at the present time, it is the possibility that there is nothing to preclude a subsequent buyer from renting the unit out as an apartment.

Mr. Garside asked why the increase in acreage is necessary. Mr. Butler answered that an additional living unit triggers the need for additional square footage of area per unit. Mr. Garside stated that he would be concerned if there were to be any blasting incidental to constructing the foundation. Mr. Butler noted that the ZBA is here to address the variance only and that any construction or building falls under the Building Inspectors responsibility.

Mr. Sadlier stated that if their lot had the allowed acreage they would not need to seek a variance.

It was the consensus of the Board to visit the site at 6:30 pm on Tuesday June 21, 2005. The applicants agreed.

It was the consensus of the Board to address the issue of the five conditions at the continued portion of this Public Hearing after the site visit.

Mr. Hunter made the motion to continue this Public Hearing to the site at 24 Andreski Drive on June 21, 2005 at 6:30 p.m. and also continue this Public Hearing to July 19, 2005 at 7:30 p.m. at the Fremont Town Hall.

Motion seconded by Mr. Baker with unanimous favorable vote.

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## MINUTES

Mr. Hunter made the motion to accept the March 15, 2005 meeting minutes as written. Motion seconded by Mr. Andrew with unanimous favorable vote.

## OTHER BUSINESS

Mr. Hunter made the motion to adjourn at 9:40 p.m.  
Motion seconded by Mr. Baker with unanimous favorable vote.

Respectfully submitted,

Meredith Bolduc, Clerk

cc: SO, TC, PB, CC, RA, BI, HO, PD, FD  
ZBA files 2-156-1.11